

Senate File 2352 - Introduced

SENATE FILE 2352
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2050)

A BILL FOR

1 An Act relating to the emergency hospitalization of a person
2 with a serious mental impairment.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 229.22, subsections 2 and 3, Code
2 Supplement 2009, are amended to read as follows:
3 2. a. In the circumstances described in subsection 1,
4 any peace officer who has reasonable grounds to believe that
5 a person is mentally ill, and because of that illness is
6 likely to physically injure the person's self or others if
7 not immediately detained, may without a warrant take or cause
8 that person to be taken to the nearest available facility or
9 hospital as defined in section 229.11, subsection 1, paragraphs
10 "b" and "c". A person believed mentally ill, and likely to
11 injure the person's self or others if not immediately detained,
12 may be delivered to a facility or hospital by someone other
13 than a peace officer. Upon delivery of the person believed
14 mentally ill to the hospital, the examining physician may
15 order treatment of that person, including chemotherapy, but
16 only to the extent necessary to preserve the person's life
17 or to appropriately control behavior by the person which is
18 likely to result in physical injury to that person or others
19 if allowed to continue. The peace officer who took the person
20 into custody, or other party who brought the person to the
21 facility or hospital, shall describe the circumstances of
22 the matter to the examining physician. If the person is a
23 peace officer, the peace officer may do so either in person
24 or by written report. If the examining physician finds
25 that there is reason to believe that the person is seriously
26 mentally impaired, and because of that impairment is likely
27 to physically injure the person's self or others if not
28 immediately detained, the examining physician shall at once
29 communicate with the nearest available magistrate as defined in
30 section 801.4, subsection 10. The magistrate shall, based upon
31 the circumstances described by the examining physician, give
32 the examining physician oral instructions either directing that
33 the person be released forthwith or authorizing the person's
34 detention in an appropriate facility. A peace officer from the
35 law enforcement agency that took the person into custody, if

1 available, during the communication with the magistrate, may
2 inform the magistrate that an arrest warrant has been issued
3 for or charges are pending against the person and request that
4 any oral or written order issued under this subsection require
5 the facility or hospital to notify the law enforcement agency
6 about the discharge of the person prior to discharge. The
7 magistrate may also give oral instructions and order that the
8 detained person be transported to an appropriate facility.

9 *b.* If the magistrate orders that the person be detained,
10 the magistrate shall, by the close of business on the next
11 working day, file a written order with the clerk in the county
12 where it is anticipated that an application may be filed
13 under section 229.6. The order may be filed by facsimile if
14 necessary. A peace officer from the law enforcement agency
15 that took the person into custody, if no request was made
16 under paragraph "a", may inform the magistrate that an arrest
17 warrant has been issued for or charges are pending against the
18 person and request that any written order issued under this
19 paragraph require the facility or hospital to notify the law
20 enforcement agency about the discharge of the person prior to
21 discharge. The order shall state the circumstances under which
22 the person was taken into custody or otherwise brought to a
23 facility or hospital, and the grounds supporting the finding
24 of probable cause to believe that the person is seriously
25 mentally impaired and likely to injure the person's self or
26 others if not immediately detained. The order shall also
27 include any law enforcement agency notification requirements if
28 applicable. The order shall confirm the oral order authorizing
29 the person's detention including any order given to transport
30 the person to an appropriate facility. A peace officer
31 from the law enforcement agency that took the person into
32 custody may also request an order, separate from the written
33 order, requiring the facility or hospital to notify the law
34 enforcement agency about the discharge of the person prior to
35 discharge. The clerk shall provide a copy of ~~that~~ the written

1 order or any separate order to the chief medical officer of the
2 facility or hospital to which the person was originally taken,
3 to any subsequent facility to which the person was transported,
4 and to any law enforcement department or ambulance service that
5 transported the person pursuant to the magistrate's order.

6 3. The chief medical officer of the facility or hospital
7 shall examine and may detain and care for the person taken
8 into custody under the magistrate's order for a period not to
9 exceed forty-eight hours from the time such order is dated,
10 excluding Saturdays, Sundays and holidays, unless the order
11 is sooner dismissed by a magistrate, or the law enforcement
12 agency has been notified of the discharge of the person as
13 required by the order of the magistrate and the law enforcement
14 agency has retrieved the person or is en route to retrieve the
15 person. The facility or hospital may provide treatment which
16 is necessary to preserve the person's life, or to appropriately
17 control behavior by the person which is likely to result in
18 physical injury to the person's self or others if allowed
19 to continue, but may not otherwise provide treatment to the
20 person without the person's consent. The person shall be
21 discharged from the facility or hospital and released from
22 custody not later than the expiration of that period, unless
23 an application for the person's involuntary hospitalization is
24 sooner filed with the clerk pursuant to section 229.6. Prior
25 to such discharge the facility or hospital shall, if required
26 by the order of the magistrate, notify the law enforcement
27 agency requesting such notification about the discharge of the
28 person. The detention of any person by the procedure and not
29 in excess of the period of time prescribed by this section
30 shall not render the peace officer, physician, facility, or
31 hospital so detaining that person liable in a criminal or
32 civil action for false arrest or false imprisonment if the
33 peace officer, physician, facility, or hospital had reasonable
34 grounds to believe the person so detained was mentally ill and
35 likely to physically injure the person's self or others if not

1 immediately detained, or if the law enforcement agency has been
2 notified of the discharge of the person pursuant to the order
3 of the magistrate and the law enforcement agency is en route
4 to retrieve the person.

5

EXPLANATION

6 This bill relates to the emergency hospitalization of a
7 person with a serious mental impairment.

8 The bill provides that a facility specified in Code section
9 229.22 also includes a hospital as provided in Code section
10 229.11(1).

11 The bill provides that if a peace officer delivers a person
12 to a facility for emergency hospitalization for a serious
13 mental impairment, and an arrest warrant has been issued for or
14 charges are pending against the person, the peace officer may
15 request that any oral or written court order require a facility
16 to notify the law enforcement agency about the discharge of the
17 person prior to discharge of the person from the facility.

18 Under the bill a peace officer from the law enforcement
19 agency may make this request to the magistrate during the
20 communication with the magistrate at the facility, prior to the
21 magistrate issuing the written order by the close of business
22 on the next working day, or may request an order that is
23 separate from the written order, which requires the facility to
24 notify the law enforcement agency about the discharge of the
25 person prior to discharge.

26 The bill requires the facility to notify the law enforcement
27 agency about the discharge of the person prior to such
28 discharge, if any order from a magistrate requires such
29 notification.

30 The bill provides that a person may be detained in excess of
31 48 hours from the time the magistrate's order is dated, if the
32 law enforcement agency is en route to retrieve the person.